

LABOUR DEPARTMENT

The 15th/16th March, 1973

No. 2538-4Lab-73/8529.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s The Chairman, Minor Irrigation (Tubewell) Corp. Ltd., Haryana, Chandigarh.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 74 of 1971

between

THE WORKMEN AND THE MANAGEMENT OF M/S THE CHAIRMAN, MINOR
IRRIGATION (TUBEWELL) CORP. LTD., HARYANA, CHANDIGARH

Present—

Shri Madhu Sudan Saran Cowshish and Shri Ram Narain Sharma, for the workmen.

Shri Mohinder Kumar Gulati, Executive Engineer, for the management.

AWARD

The following dispute between the management of M/s Minor Irrigation (Tubewell) Corporation Ltd., Haryana, Chandigarh, and its workmen were referred for adjudication to this Tribunal by order No. ID/20661, dated 8th July, 1971, of the Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

- (1) Whether the grade of tubewell operators should be revised ? If so, with what details ?
- (2) Whether the post of higher grade should be filled by promotion from amongst the tubewell operators ? If so, what should be the procedure for the same ?
- (3) Whether all the tubewell operators who have completed 3 to 5 years service without any break, should be confirmed ? If so, with what details ?

On receipt of the order of reference usual notices were given to the parties and they put in their respective written statements. The issues that arose for determination in the case are precisely the same as per the terms of reference stated above.

Two witnesses have been examined on behalf of the workmen, namely, Shri Ram Narain Sharma, President, Haryana Tubewell Operators and Mechanical Workers Union, Karnal, W.W. 1 and Shri Darshan Singh, one of the concerned workmen and also the auditor of the said union, W.W. 2. The management has examined one witness Shri M.K. Gulati, Executive Engineer, Tubewell Division No. 1, Karnal. The case has been fully argued on both sides and I have given a careful consideration to the facts on record. The issues may be taken up separately.

Issue No. 1.—It has been urged on behalf of the workmen concerned that the Tubewell Operators who are Matriculates and have put in service for many years have not been given their due grade. According to the statement of Shri M.K. Gulati, Executive Engineer, M.W.1, they have been fixed in the grade of Rs 80—2—90—3—120 as per the scales of pay fixed by the State Government in February, 1969 and the total emoluments of a Tubewell Operator come to Rs 171 per mensem. He has further stated that the nature of the duties performed by the Tubewell Operators are the same as those of the Assistant Pump Drivers in the Public Health Department whose emoluments are even lesser and as such they are not entitled to any revision of the present grade. On behalf of the workmen concerned it has been contended that they have been designated as Class III employees and should, therefore, be given the minimum grade of this category of workmen, i.e., Rs 110—4—130/5—160/5—225 which is enjoyed by the Clerks. Taking into consideration the ever-increasing cost of living, the nature of hard duties performed by the Tubewell Operators concerned and their long services and experience, I think that the demand for the revision of the grade as stated above is justified. In the course of their duties as Tubewell Operators they are required to maintain quite a number of registers such as Inspection Registers, Account Books, Log Books, Bill Books, besides some charts and that being so they should reasonably be equated with the Clerks for purpose of fixation of their grade. The management has not been able to satisfy me to the contrary. It has been argued that the financial position and the paying capacity of the Corporation has to be taken into consideration but nothing has been brought on record to show that the Corporation has run into losses and its financial position does not

justify the increase in the wages demanded by the Tubewell Operators concerned. I, therefore, decide issue No. 1 in favour of the workmen and hold that they are entitled to the revision of their present grade to that of the Clerks, i.e., Rs 110—4—130/5—160/5—225.

Issue No. 2.—It has been argued on behalf of the workmen that the posts of higher grade such as Electricians, Supervisors, etc., should be filled by promotion from amongst the Tubewell Operators. This demand has in a way been conceded on behalf of the management as it has come in the statement of Shri M.K. Gulati, M.W.1, that some of the Tubewell Operators have already been promoted to higher posts. The contention, however, is that all the Tubewell Operators cannot as of right be entitled to promotion in the higher grade. The contention has force to some extent. All the Tubewell Operators can not be held entitled to promotion in the higher grade claimed by them to bar the rights of other persons eligible for appointment on higher posts through direct recruitment or otherwise. But in order to avoid chances of discrimination and heart-burning amongst the workmen concerned as also to give them incentive for good and efficient work it would be in the fitness of things if at least 50 per cent of the promotion to higher grade are made from amongst the Tubewell Operators having regard to their *inter se* seniority. The issue is accordingly decided in favour of the workmen.

Issue No. 3.—The demand covered by this issue has been opposed on behalf of the management mainly on the ground that the Corporation having started functioning only with effect from 1st April, 1970, the workmen concerned have not yet completed three years of service. The contention is again not warranted by the facts on record. The Tubewell Operators concerned are all old employees of the Irrigation Department having put in service for more than 3 years. Nothing has been brought on record to show that their appointments in the present establishment have to be considered as fresh appointments nor that the Tubewell Operators had given any such undertaking before joining their present duties. At any rate, the matter has been set at rest by a settlement arrived at between the management and the workers union on 15th July, 1971, as stated by Shri M.K. Gulati, Executive Engineer. This settlement provides for the regularisation of the work-charged staff as given under :—

- (1) 50 per cent by 31st March, 1972,
- (2) 25 per cent by 31st March, 1973,
- (3) and remaining 25 per cent by 31st March, 1974.

The concerned workmen have not disputed this settlement by virtue of which the services of 75 per cent of them would be regularised by 31st of March, 1973 and of the remaining 25 per cent by the end of March, 1974 and that would substantially meet their demands. The issue is accordingly decided in favour of the workmen and it is held that 75 per cent of the Tubewell Operators shall be confirmed by the end of March, 1973 and the remaining 25 per cent by 31st of March, 1974, having regard to their *inter se* seniority from the date/dates of their entry into service.

That disposes of the entire case and in view of my above findings on the issues involved the management is directed to revise the existing grade of the Tubewell Operators to Rs 110—4—130/5—160/5—225, with effect from the date of the present reference and confirm 75 per cent of them by the end of March, 1973 and the remaining 25 per cent by 31st of March, 1974 having regard to their *inter se* seniority from the date/dates of their entry into service. It is further held that in future 50 per cent of the posts in the higher grade shall be filled by promotion from amongst the Tubewell Operators keeping in view their *inter se* seniority. The award is accordingly made. There shall be no order as to costs.

O. P. SHARMA,

Dated 23rd February, 1973.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 199, dated 23rd February, 1973.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Dated 23rd February, 1973

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

S.N. BHANOT,

Commissioner for Labour and Employment, & Secy.